

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MICHELLE LOSCALZO,	-----X	
	:	Via ECF
	:	
Plaintiff,	:	Case No.: 07 CIV 3046 (SCR)
	:	
- against -	:	<u>AMENDED ANSWER</u>
	:	
NEW ROC HARLEY DAVIDSON AND BUELL,	:	
INC.	:	
	:	
Defendant.	:	
	-----X	

Defendant, NewRoc Motorcycles, LLC, incorrectly sued herein as New Roc Harley Davidson and Buell, Inc. ("NewRoc"), by and through its attorneys Putney, Twombly, Hall & Hirson LLP, as and for its Amended Answer to Plaintiff's Amended Complaint ("Amended Complaint"), states as follows:

1. Denies the allegations contained in Paragraph 1 of the Amended Complaint.
2. Denies the allegations contained in Paragraph 2 of the Amended Complaint, except admits that Plaintiff purports to proceed as stated therein.
3. Denies the allegations contained in Paragraph 3 of the Amended Complaint, except admits that Plaintiff purports to proceed as stated therein.
4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Amended Complaint.
5. Denies the allegations contained in Paragraph 5 of the Amended Complaint, except admits that NewRoc is a New York Corporation.
6. Admits the allegations contained in Paragraph 6 of the Amended Complaint.
7. Denies the allegations contained in Paragraph 7 of the Amended Complaint.

8. Denies the allegations contained in Paragraph 8 and subparagraphs 8(a), 8(b), 8(c), 8(d), 8(e) , 8(f), 8(g), 8(h), 8(i) and 8(j) of the Amended Complaint.
9. Denies the allegations contained in Paragraph 9 of the Amended Complaint.
10. Denies the allegations contained in Paragraph 10 of the Amended Complaint.
11. Denies the allegations contained in Paragraph 11 of the Amended Complaint.
12. Denies the allegations contained in Paragraph 12 of the Amended Complaint.
13. Denies the allegations contained in Paragraph 13 of the Amended Complaint.
14. Denies the allegations contained in Paragraph 14 of the Amended Complaint.
15. Denies the allegations contained in Paragraph 15 of the Amended Complaint.
16. Denies the allegations contained in Paragraph 16 of the Amended Complaint.
17. Denies the allegations contained in Paragraph 17 of the Amended Complaint.
18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of the Amended Complaint.
19. Denies the allegations contained in Paragraph 19 of the Amended Complaint, except admits that Plaintiff elected to continue her medical coverage.
20. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of the Amended Complaint.
21. Denies the allegations contained in Paragraph 21 of the Amended Complaint.
22. Denies the allegations contained in Paragraph 22 of the Amended Complaint.
23. Denies the allegations contained in Paragraph 23 of the Amended Complaint, except admit that Plaintiff failed to make time payment to continue her medical coverage.

24. Denies the allegations contained in Paragraph 24 of the Amended Complaint.

25. Denies the allegations contained in Paragraph 25 of the Amended Complaint.

26. Denies the allegations contained in Paragraph 26 of the Amended Complaint.

27. With respect to the allegations contained in Paragraph 27 of the Amended Complaint, repeats and realleges each and every response to Paragraphs 1 through 26 of the Amended Answer as if fully set forth herein.

28. Denies the allegations contained in Paragraph 28 of the Amended Complaint.

29. With respect to the allegations contained in Paragraph 29 of the Amended Complaint, repeats and realleges each and every response to Paragraphs 1 through 28 of the Amended Answer as if fully set forth herein.

30. Denies the allegations contained in Paragraph 30 of the Amended Complaint.

31. With respect to the allegations contained in Paragraph 31 of the Amended Complaint, repeats and realleges each and every response to Paragraphs 1 through 30 of the Amended Answer as if fully set forth herein.

32. Denies the allegations contained in Paragraph 32 of the Amended Complaint.

33. With respect to the allegations contained in Paragraph 33 of the Amended Complaint, repeats and realleges each and every response to Paragraphs 1 through 32 of the Amended Answer as if fully set forth herein.

34. Denies the allegations contained in Paragraph 34 of the Amended Complaint.

AS AND FOR A FIRST DEFENSE

35. The Amended Complaint fails to state a claim upon which relief may be granted.

AS AND FOR A SECOND DEFENSE

36. The Amended Complaint is barred, in whole or in part, to the extent that it was not filed within the period of time mandated by the applicable statutes of limitations.

AS AND FOR A THIRD DEFENSE

37. Any and all actions taken by NewRoc were based on legitimate, nondiscriminatory reasons unrelated to Plaintiff's sex and unrelated to any invocation by Plaintiff of rights arising under federal, state or local law.

AS AND FOR A FOURTH DEFENSE

38. Plaintiff's claims are barred, either in whole or in part, to the extent that Plaintiff has failed to file a timely claim thereon with relevant administrative agencies and exhaust all necessary administrative remedies or procedures regarding such claims.

AS AND FOR A FIFTH DEFENSE

39. Plaintiff's claims are barred, either in whole or in part, to the extent that Plaintiff has failed to meet administrative prerequisites or conditions precedent regarding the commencement of this action.

AS AND FOR A SIXTH DEFENSE

40. The Amended Complaint is barred, in whole or in part, to the extent it relies upon, or refers to claims not asserted in the Charge of Discrimination.

AS AND FOR A SEVENTH DEFENSE

41. Upon information and belief, Plaintiff failed to mitigate damages, if any exist, as required under the law.

AS AND FOR AN EIGHTH DEFENSE

42. Plaintiff's claims for relief are barred, in whole or in part, by the doctrines of waiver and estoppel.

AS AND FOR A NINTH DEFENSE

43. Plaintiff's claims are barred, in whole or in part, by the doctrine of laches.

AS AND FOR A TENTH DEFENSE

44. NewRoc maintains a well established "No Harassment" Policy.

45. Plaintiff was aware of NewRoc's "No Harassment" Policy.

46. Plaintiff did not utilize NewRoc's well established "No Harassment" Policy.

AS AND FOR AN ELEVENTH DEFENSE

47. Any damages or loss sustained by Plaintiff were caused solely by the culpable conduct on the part of Plaintiff.

48. Plaintiff is therefore not entitled to recover.

AS AND FOR A TWELFTH DEFENSE

49. Plaintiff's claims are barred, in whole or in part, by the equitable doctrine of unclean hands.

WHEREFORE, NewRoc demands judgment as follows:

- (i) dismissing the Amended Complaint in its entirety;
- (ii) granting Defendant reasonable attorneys' fees, costs and disbursements incurred in this action; and

(iii) granting such other, further and different relief as this Court deems just and proper.

Dated: New York, New York
September 11, 2007

/s/

Mary Ellen Donnelly (MD 4936)

PUTNEY, TWOMBLY, HALL & HIRSON LLP

521 Fifth Avenue

New York, New York 10175

(212) 682-0020

*Attorneys for Defendant, NewRoc
Motorcycles, LLC*

CERTIFICATE OF SERVICE

The undersigned, a member of the Bar of this Court, hereby certifies that she caused a true and accurate copy of the foregoing Answer of NewRoc Motorcycles, LLC to be served via electronic case filing and overnight mail on September 11, 2007 upon:

Jeffrey M. Bernbach, Esq.
Attorney for Plaintiff
245 Main Street, 5th Floor
White Plains, New York, NY 10601

/s/ MED
Mary Ellen Donnelly (MD 4396)
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